

the Commission not required by statute to be determined upon notice and hearing.

**§ 3001.4 Method of citing rules.**

This part shall be referred to as the “rules of practice.” Each section, paragraph, or subparagraph shall include only the numbers and letters to the right of the decimal point. For example, “3001.24 *Prehearing conferences*” shall be referred to as “section 24.”

**§ 3001.5 Definitions.**

(a) *Act* means the Postal Reorganization Act (84 Stat. 719, title 39, U.S.C.), as amended.

(b) *Postal Service* means the U.S. Postal Service established by the Act.

(c) *Commission* or *Commissioner* means, respectively, the Postal Rate Commission established by the Act or a member thereof.

(d) *Secretary* means the Secretary or the Acting Secretary of the Commission.

(e) *Presiding officer* means the Chairman of the Commission in proceedings conducted by the Commission en banc or the Commissioner or Administrative Law Judge of the Commission designated to preside at hearings or conferences.

(f) *Person* means an individual, a partnership, corporation, trust, unincorporated association, public or private organization, or governmental agency.

(g) *Party* means the Postal Service, a complainant, an appellant, or a person who has intervened in a proceeding before the Commission.

(h) *Participant* means any party and the officer of the Commission who is designated to represent the interests of the general public and, for purposes of §§ 3001.11(e), 3001.12, 3001.21, 3001.23, 3001.24, 3001.29, 3001.30, 3001.31, and 3001.32 only, it also means persons who are limited participants.

(i) *Complainant* means a person or interested party who as permitted by section 3662 of the Act files a complaint with the Commission in the form and manner hereinafter prescribed.

(j) *Hearing* means a hearing under sections 556 and 557 of title 5, U.S.C. (80 Stat. 386), as provided by sections 3624, 3661, and 3662 of the Act.

(k) *Record* means the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, which constitutes the exclusive record for decision.

(l) *Effective date* of an order or notice issued by the Commission or an officer thereof means the date of issuance unless otherwise specifically provided.

(m) *Appellant* means a person who as permitted by 39 U.S.C. 404(b) appeals to the Commission a determination of the Postal Service to close or consolidate a post office.

(n) *Commission meeting* means the deliberations of at least three Commissioners where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 3001.43(d) or § 3001.43(e).

(o) *Ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all participants and limited participants is not given, but it shall not include requests for status reports on any matter or proceeding covered by subchapter II of chapter 5 of title 5 or a proceeding conducted pursuant to subpart H of this part.

(p) *Domestic Mail Classification Schedule* means the classification schedule, including schedules of full and phased rates and fees, adopted by the Decision of the Governors of the U.S. Postal Service Re Recommended Decision of the Postal Rate Commission Regarding the Proper Scope and Extent of the Mail Classification Schedule, issued April 3, 1979, and any amendments thereto adopted pursuant to the procedures of subchapter III, chapter 36, title 39 of the U.S.C.

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4327, Feb. 13, 1973; 42 FR 8142, Feb. 2, 1977; 42 FR 10992, Feb. 25, 1977; 42 FR 13290, Mar. 10, 1977; 44 FR 26075, May 4, 1979; 58 FR 38976, July 21, 1993]

**§ 3001.6 Appearances.**

(a) *By whom.* An individual may appear in his/her own behalf; a member of a partnership may represent the partnership; and an officer may represent a corporation, trust, unincorporated association, or governmental agency. A

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person may be represented in a proceeding by an attorney at law admitted to practice and in good standing before the Supreme Court of the United States, the highest court of any State or Territory of the United States or the District of Columbia, or the Court of Appeals or the District Court for the District of Columbia.

(b) *Authority to act.* When an officer of any party or an attorney acting in a representative capacity appears in person or signs a paper filed with the Commission, his/her personal appearance or signature shall constitute a representation to the Commission that he/she is authorized to represent the particular party in whose behalf he/she acts. Any person appearing before or transacting business with the Commission in a representative capacity may be required by the Commission or the presiding officer to file evidence of his/her authority to act in such capacity.

(c) *Designation for service.* A person intending to appear before the Commission or its presiding officer in a representative capacity for a party in a proceeding shall file with the Commission a notice of appearance in the form prescribed by the Secretary unless the person is named in an initial filing of the party whom he/she represents as a person to whom communications from the Commission in regard to the filing are to be addressed. Failure to file a notice required by this paragraph shall constitute a waiver of the right to service of documents.

(d) *Standards of conduct.* Individuals practicing before the Commission shall conform to the standards of ethical conduct required of practitioners in the courts of the United States.

(e) *Disqualification and suspension.* After hearing, the Commission may disqualify and deny, temporarily or permanently, the privilege of appearing and practicing before it in any way to any individual who is found not to possess the requisite qualifications, or to have engaged in unethical or improper professional conduct. Contumacious conduct at any hearing before the Commission or its presiding officer shall be ground for exclusion of any individual from such hearing and for summary suspension for the duration of the hear-

ing by the Commission or the presiding officer.

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4327, Feb. 13, 1973; 51 FR 8827, Mar. 14, 1986; 58 FR 38976, July 21, 1993]

### § 3001.7 Ex parte communications.

(a) *Definitions*—(1) *Decision-making Commission personnel.* Subject to the exception stated in paragraph (a)(2)(ii) of this section, the following categories of persons are designated “decision-making Commission personnel”:

(i) The Commissioners and their personal office staffs;

(ii) The General Counsel and his/her staff;

(iii) The Director of the Office of Technical Analysis and Planning and his/her staff.

(iv) Any other employee who may reasonably be expected to be involved in the decisional process.

(2) *Non-decision-making Commission personnel.* The following categories of persons are designated “non-decision-making Commission personnel”:

(i) All Commission personnel other than decision-making Commission personnel;

(ii) Decision-making Commission personnel not participating in the decisional process owing to the prohibitions of § 3001.8 or 39 CFR 3000.735, Subpart C.

(b) *Prohibition.* In any agency proceeding that is required to be conducted in accordance with section 556 of Title 5 or a proceeding conducted pursuant to Subpart H of this part, except to the extent required for the disposition of ex parte matters as authorized by law:

(1) Interested persons outside the Commission and non-decision-making Commission personnel shall not make or knowingly cause to be made to any Commission decision-making personnel ex parte communications relevant to the merits of the proceeding;

(2) Commission decision-making personnel shall not make or knowingly cause to be made to any interested person outside the Commission or to non-decision-making Commission personnel ex parte communications relevant to the merits of the proceeding;